

Examination Procedures

Management or Policy-Related Procedures

1. Determine the extent and adequacy of the financial institution's policies, procedures, and practices for ensuring compliance with Regulation DD.

NOTE: This should include a determination as to whether the financial institution has an adequate internal mechanism in place to monitor the effectiveness of its compliance with the regulation.

2. Determine the extent and adequacy of the training provided to those individuals responsible for compliance with Regulation DD.
3. Review the policies and procedures of the financial institution to ensure that account disclosure information is provided to new or potential deposit account customers within the appropriate time frames.
4. Determine if the financial institution's procedures ensure subsequent disclosure of any change in terms required to be disclosed under §230.4(b) and that exceptions to notice requirements are limited to those set forth in §230.5(a)(2).
5. Determine if the financial institution's method of paying interest is permitted by the regulation. This should include a review of when interest begins to accrue for deposits to the account. (§230.7)
6. Determine if the institution's advertising policies are consistent and meet the requirements of Regulation DD. (§230.8)

Transaction-Related Procedures

Account Disclosures

1. Determine the types of deposit accounts offered to consumers. Include accounts usually offered to commercial customers that may occasionally be offered to consumers, as well as the characteristics for each type of deposit account (for example, bonuses offered, minimum balances, balance computation method, frequency of interest crediting, fixed or variable rates, fees imposed, frequency of periodic statements, etc.).
2. Review each deposit account disclosure to determine whether the contents are accurate, include all information required by the regulation, and are consistent throughout the disclosure. (§230.4(b))
3. Determine whether the account disclosures reflect the legal obligation between the consumer and the financial institution. (§230.3(b))
 - Select samples of both disclosures and legal obligations to review for consistency. Review should include

testing calculations for early withdrawal penalties for consistency with the legal obligation (such as certificate of deposit form) and disclosures. If bank uses forms with boxes to indicate penalty method to be used, determine if any box or the wrong box is being checked.

NOTE: Renewal notices provide for changes in disclosures only and do not apply to the underlying legal obligation.

4. Determine whether the financial institution provides the required deposit account disclosures on a timely basis in connection with the opening of an account or upon request. (§230.4(a))

Notice of Change in Terms and Notice Before Maturity

1. Determine whether the financial institution sends out change in terms notices to consumers at least 30 calendar days in advance of the effective date of any change in a term that may reduce the APY or that adversely affects the consumer.
 - Review a sample of these notices to ensure that they include all required information
 - Verify that these notices are sent on a timely basis (§230.5(a))
2. Determine whether the financial institution sends out notices before maturity for time accounts.
 - Review a sample of these notices to ensure that they include all required information
 - Verify that these notices are sent on a timely basis (§230.5(a))

Refer to the Prematurity Disclosures for Time Accounts chart at the end of this section.

Periodic Statement Disclosures

1. Determine the accounts for which the financial institution sends a periodic statement and the frequency with which they are sent.

NOTE: A financial institution is not required to send a periodic statement; however, if it does, it must comply with the provisions of §230.6.

2. Review a sample of periodic statements from each of the different types of deposit accounts.

NOTE: The examiner should obtain samples of completed periodic statements for each deposit account that illustrate the various types of transactions and activities permitted on the account.

3. Determine if the periodic statements include all required disclosures and that they are accurate. (§230.6)

NOTE: When testing accuracy of fees which are based on maintaining certain daily or average daily balances, determine whether the balances are being properly calculated. Review statements to determine inconsistencies such as non-business day ATM debits being posted to a depositor's account immediately for calculation of balances on which interest and fees are based, but incorrectly shown on the periodic statement as being posted on the next business day.

Payment of Interest

1. Review a sample of each of the different types of deposit accounts to determine whether the financial institution's method of paying interest is one of the methods permitted under §230.7.
 - If an account requires a minimum balance to obtain an annual percentage yield, select periodic statements where the balance drops below the minimum for one day or a few days of the period. (This will reveal whether the bank is using a prohibited low-balance method of interest calculation.)
 - Select periodic statements where the daily balance is at two or more tiers (and therefore two or more interest rates) during the same period. (This may reveal practices or methodologies which are inconsistent with disclosures/advertising or practices which are unacceptable or prohibited by the regulation. Selecting accounts with balances in just one tier or just the lowest tier during the period will not reveal these practices.)
 - When testing accounts for daily compounding of interest as disclosed and/or advertised, choose accounts which have higher balances, longer terms, and higher interest rates whenever possible. (The use of such accounts facilitates the detection of calculation errors that may otherwise be concealed in small balance, short-term, low-rate accounts.)
 - Samples should include not only deposit accounts with periodic statements, but also accounts for which no periodic statements are required. This includes such deposit types as passbook savings accounts, certificates of deposit, and IRA accounts. These may be examined by reviewing deposit histories of these accounts.
2. Determine if interest begins to accrue not later than the business day specified for interest bearing accounts under §229.14 of Regulation CC and that interest accrues until the day funds are withdrawn.

NOTE: If the financial institution calculates interest on the collected balance (as indicated by management on the Compliance Information Document Request), all necessary documentation for verifying when interest for the selected sample began accruing should have been requested during the initial stages of the examination.

3. Determine that accrued interest is not forfeited when a consumer closes their account prior to crediting of the interest unless this practice is specified in the initial account disclosures.

Electronic Communication

In accordance with the Electronic Signatures in Global and National Commerce Act (the E-Sign Act) and Section 10 of the regulation, a depository institution may provide by electronic communication any disclosure required by this part to be in writing. Note that it is not mandatory that an institution provide disclosures electronically.

Enforcement Actions

Regulation DD does not address the issue of requiring monetary adjustments or reimbursement.

To avoid the possibility of an enforcement action, the institution should:

- Notify account holders of noncompliance with Regulation DD;
- Make the necessary adjustments to ensure affected account holders are not liable for either excessive fees or charges or any fee or charge that was not disclosed; and receive the appropriate amount of interest for the disclosed APY and conditions; and
- Act within 60 days of discovering the error and before an account holder files suit or notifies the bank of its noncompliance with Regulation DD.

Thus, it is in the financial institution's best interest to promptly notify account holders of any errors that are identified and promptly adjust those errors. Should a financial institution refuse to notify the account holder of the error and make necessary adjustment, Regional Directors may, in appropriate circumstances, pursue formal enforcement action under Section 8 of the FDI Act.

Record Retention

Review a sample of the financial institution's records to determine whether the institution has maintained evidence of compliance for a minimum of two years after disclosures are required to be made or action is required to be taken. (§230.9)